

**8893. Adulteration of frozen whole eggs. U. S. v. 22 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. D. C. No. 15752. Sample No. 5816-H.)**

**LABEL FILED:** March 28, 1945, Southern District of New York.

**ALLEGED SHIPMENT:** On or about February 19 and 26, 1945, by the Ballas Egg Products Co., Inc., from Zanesville, Ohio.

**PRODUCT:** 22 30-pound cans of frozen whole eggs at New York, N. Y.

**LABEL, IN PART:** "M Frozen Blend of Egg Yolks & Egg Whites \* \* \* Distributed By Swift & Company \* \* \* Chicago, Ill."

**NATURE OF CHARGE:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** April 16, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### FEEDS AND GRAINS

**8894. Action to enjoin and restrain the interstate shipment of misbranded Egg-O-Milk Co.'s Blend and Milkmaid Co.'s Blend. U. S. v. G. Fred Obrecht, individually, and trading under the firm names Hood Mills Co., Egg-O-Milk Co., P. Fred'k Obrecht and Son, Farmers Service Bureau, Gerard Milk Products Co., Milkmaid Co., and Obrecht Sales Co. Tried to the court. Permanent injunction granted. (Inj. No. 92.)**

**COMPLAINT FILED:** April 18, 1945, District of Maryland, against the above-described defendant, with office and principal place of business at Baltimore, Md., and plant at Hoods Mills, Md.

**PURPOSE OF COMPLAINT:** To restrain the defendant from shipping animal feed misbranded in the manner described below.

**NATURE OF CHARGE:** That since December 1, 1931, the defendant had been manufacturing, mixing, blending, packing, and offering for interstate commerce animal feed that was misbranded in the following manner: Section 403 (a), the labeling of the feed was false and misleading; and, Section 403 (b), the feed was offered for sale under the names of other food products.

**PRAYER OF COMPLAINT:** That a preliminary injunction issue, restraining the defendant from commission of the acts complained of; and that, after due proceedings, the preliminary injunction be made permanent.

**DISPOSITION:** On July 25, 1945, judgment was entered which permanently enjoined the defendant from the commission of the acts complained of. In rendering judgment, the court made findings of fact and conclusions of law, and delivered an opinion, as follows:

*COLEMAN, District Judge:*

#### FINDINGS OF FACT

"I. That the defendant, G. Fred Obrecht, has been for many years, and now is, trading and doing business individually, and under the assumed names and styles of Hood Mills Co., Egg-O-Milk Co., P. Fred'k. Obrecht & Son, Farmers Service Bureau, Gerard Milk Products Co., Milkmaid Company, and Obrecht Sales Co., and is now, and has been for many years, engaged in the business of manufacturing, mixing, blending, packaging, selling, marketing, and shipping in interstate commerce animal feeds, foods within the meaning of Section 201 (f) of the Federal Food, Drug, and Cosmetic Act [Title 21 U. S. C. Section 321 (f)]; and that the said defendants conduct business at 4101 E. Monument Street, Baltimore, State of Maryland, and at Hoods Mills, Carroll County, State of Maryland, within the jurisdiction of this Court, and have been so located and engaged in said business for a number of years.

"II. That during the period, and on or about and between December 1, 1931 and March 26, 1945, the defendant, G. Fred Obrecht, individually, and trading under the assumed names and styles aforesaid, introduced and delivered for introduction into interstate commerce at various times and in varying amounts, addressed to consignees in different states of the United States, an animal feed known as 'Egg-O-Milk The Perfect Food—Protein 18%,' which name was contained on the labels on the containers of the said animal feed, and which is hereinafter referred to as 'Egg-O-Milk.'

"III. That the said animal feed 'Egg-O-Milk' is a blended poultry food containing a very small amount of milk and egg, and that there is not a sufficient content in the said feed of either milk or egg to justify reference thereto by use of the name 'Egg-O-Milk.'